



Australian Government

**Australian Transaction Reports
and Analysis Centre**

Senate Committee on Foreign Affairs, Defence and Trade

**Inquiry into the economic and security challenges
facing Papua New Guinea and the island states of the
southwest Pacific**

Australian Transaction Reports and Analysis Centre (AUSTRAC) - Submission

October 2008

AUSTRAC has a dual role as Australia's specialist financial intelligence unit (FIU) and anti-money laundering and counter-terrorism financing (AML/CTF) regulator.

As an FIU, AUSTRAC has provided technical assistance to the Pacific region since 2004. To date, assistance has been limited to IT support. During this time AUSTRAC has noted positive developments in the approach to combating money laundering and terrorism financing within the region.

AUSTRAC technical assistance to the Pacific has been funded by a grant from the Australian Agency for International Development (AusAID) Pacific Governance Support Program (PGSP). Additional funding has been sought to extend technical assistance and training provided to the Pacific.

Economic and security challenges in PNG and the southwest Pacific

Money laundering and terrorism financing present serious threats to domestic security and engender social and political instability. Money laundering also threatens financial stability and reduces the potential for economic development. Weak AML/CTF regimes can impede investment by undermining investor confidence in the stability of the financial system. Moreover, money laundering can create economic inefficiencies leading to misallocation of resources and, significantly for developing economies, can distort commodity prices. Smaller economies such as the Pacific island states are particularly vulnerable to such risks.¹

FIUs are a vital component of AML/CTF strategies. FIUs are responsible for receiving, analysing, and disseminating suspicious transaction reports and details of large transactions to the competent authorities (such as law enforcement and anti-corruption agencies). By collecting and analysing transaction reports, FIUs provide critical information that assists in detecting criminal activity. Conversely, a lack of access to financial intelligence can dramatically slow investigations and limit the capacity for law enforcement to detect, investigate and disrupt crime.

Access to financial intelligence enables investigators to follow the money trail. Money laundering investigations often lead to the detection of related criminal activity, enabling law enforcement agencies to target organised crime more readily. Additionally, strong AML/CTF regulatory frameworks and effective FIUs increase control over national economic frameworks.

Strong and effective AML/CTF systems also support governance structures. The findings of a recent report prepared under the auspices of the Asia/Pacific Group on Money Laundering (APG) and the Financial Action Task Force (FATF) concluded that the prevention of corruption is likely to be the most valuable aspect of anti-money laundering systems in developing countries.² As noted in the *APG/FATF Report on*

¹ See Asia Development Bank 'Money Laundering: A Challenge to Financial Stability and Economic Development' available at: <http://www.adb.org/Documents/Speeches/1999/ms1999026.asp>

² APG/FATF Report on corruption and money laundering Dr. David Chaikin and Dr. Jason Sharman (7 September 2007), APG/FATF Report on corruption and money laundering, <http://www.apgml.org/issues/docs/17/APG->

corruption and money laundering, the positive link between effective AML regimes and anti-corruption efforts has been under-exploited to date.

A number of Pacific island states have not yet passed AML/CTF legislation or formed an FIU. Even where relevant legislation has been enacted and there is a functional FIU, some Pacific FIUs are limited in their capacity to operate effectively by resource and funding constraints.

FIUs have a broad range of AML/CTF responsibilities to meet. Yet Pacific FIUs often have only one or very few staff members, frequently working on a part-time basis. When combined with a lack of domestic government support, these limitations create a challenge in establishing and maintaining an effective AML/CTF regime.

Implications for Australia

Money laundering is an international problem, affecting sophisticated financial systems as well as those where cash dominates. Money laundering and corruption have a negative impact on the regional economy by, among other things, destabilising the financial and security environment.

AUSTRAC considers the Pacific a priority region for regulatory engagement and information exchange given the large number of Australian financial institutions operating branches across the Pacific and the level of money laundering, crime and corruption in the Pacific.

Australia is a significant destination country for funds derived from corrupt activities within the region. No sanitised Australian case studies are currently available but AUSTRAC continues to work with partner agencies to develop typologies and, if appropriate, tailor intelligence products accordingly. A stronger, regional AML/CTF environment complements Australia's efforts to ensure a domestic environment capable of detecting and deterring money laundering and terrorism financing.

Ultimately, strong links with effective regional FIUs support AUSTRAC's long term information and intelligence exchange goals. These ties are critical for the early detection of, and response to, emerging money laundering and terrorism financing threats and trends.

How the Australian Government can assist

Addressing the AML/CTF capacity building needs of the Pacific is an important part of achieving Australia's strategic objectives of strengthening economic growth and stability. There are a number of gaps and opportunities associated with AML/CTF capacity-building throughout the Pacific. AUSTRAC has an important role in assisting counterpart FIUs in the Pacific to develop sufficient capacity to detect money laundering and the proceeds of corruption.

Since 2004, AUSTRAC has undertaken a number of projects in the broader Pacific region funded by AusAID's PGSP. These projects, now nearing completion, have

focussed on the delivery of technology solutions for FIUs and related training of their staff. As part of the FIU-in-a-box Database Application Support Project conducted in 2007-08, AUSTRAC provided ongoing support and a review of database installation in six Pacific FIUs: the Cook Islands, Samoa, Tonga, Vanuatu, Palau and the Solomon Islands.

While IT assistance has been an important element of AUSTRAC's Pacific engagement, AUSTRAC recognises that it is now necessary to build upon and extend the existing levels of capability within Pacific jurisdictions, including Papua New Guinea and the southwest Pacific states.

AUSTRAC's IT-related technical assistance and training to six Pacific FIUs has resulted in an increased capacity to receive and record a range of AML/CTF reports - for example, to record reports relating to suspicious matters, transactions above a threshold amount and cross-border movement of currency. These FIUs also have a greater understanding of the importance of reporting in establishing and maintaining a robust AML/CTF regime.

As the ability to receive and store suspicious transaction and other reports increases, so too does the need for Pacific jurisdictions to critically analyse these reports from an intelligence perspective. Pacific jurisdictions have repeatedly identified financial intelligence analysis as a key area of need. AUSTRAC is planning to provide assistance to increase understanding of how information contained within FIU databases can be used to detect financial crime.

AUSTRAC is currently in discussions with the Attorney-General's Department Anti-Money Laundering Assistance Team (AMLAT) regarding the joint delivery of a financial intelligence analysis program to address this area of capacity building need. At this stage, it is proposed that a joint analysis workshop would include Papua New Guinea, the Solomon Islands and Vanuatu. In working together with AMLAT, AUSTRAC is conscious of the need to build on existing capabilities and to avoid duplication of work.

AUSTRAC considers that it could also play a role in supporting anti-corruption efforts by conducting awareness raising activities with Pacific jurisdictions. AUSTRAC is currently considering the inclusion of a component on 'politically exposed persons' and 'foreign bribery as a predicate offence to the money laundering offence' in the future technical assistance and training program proposed for the Pacific. However, political sensitivities in some Pacific jurisdictions in relation to corruption and politically exposed persons may preclude such activities occurring in the short term.

In AUSTRAC's assessment it is opportune to increase AML/CTF assistance to the Pacific, given the growth of AML/CTF supervision in the region. AUSTRAC discussions with the International Monetary Fund (IMF) indicate that Pacific regulators would be interested in regulatory cooperation and information exchange with AUSTRAC, particularly owing to recent supervisory developments.

In addition to building upon existing business processes, the need for compliance training has also been identified by a number of stakeholders. For example, AUSTRAC representatives who attended the joint Pacific Anti-Money Laundering

Project/IMF/Commonwealth Secretariat regional workshop in December 2007, noted that most Pacific jurisdictions have a framework or systems in place to regulate reporting entities, but struggle to implement or enforce these obligations.

FIUs are also increasingly aware of the importance of providing adequate guidance to industry on their AML/CTF requirements. The provision of compliance training would therefore build upon this existing level of awareness, and provide skills to FIU staff whereby they can increase the levels and quality of reporting they are already receiving from regulated industries.

Overall, there is a demonstrated need for compliance-related technical assistance and training in the Pacific region, including in Papua New Guinea and the southwest Pacific states. As Australia's AML/CTF regulator and FIU, AUSTRAC has the expertise and experience to provide this assistance.

AUSTRAC conducted broad research and consultation with key stakeholders prior to developing a proposed program for 2008-09 to address technical assistance needs. In June 2008, AUSTRAC submitted an Activity Concept Proposal to AusAID for funding under the 2008-09 PGSP, to allow AUSTRAC to continue to conduct a regional program of technical assistance and training in the Pacific.

Regional organisations – the APG

The APG is an autonomous international organisation that assists jurisdictions to coordinate their AML/CTF regimes. The APG was founded in 1997 and consists of 38 member jurisdictions and a number of international and regional observers. Australia is the permanent co-chair to the APG; this position is held by the Australian Federal Police Commissioner.

The following Pacific jurisdictions are members of the APG: Cook Islands; Fiji Islands; the Marshall Islands; Nauru; Niue; Palau; Samoa; Solomon Islands; Tonga; and Vanuatu. Papua New Guinea is a Priority Observer, and Kiribati is an Observer. As discussed below, AUSTRAC is playing an active role in supporting Papua New Guinea through the APG membership process.

As the FATF-style regional body, the APG supports the implementation of international AML/CTF standards and facilitates peer compliance assessments, known as mutual evaluations. These assessments evaluate member compliance with the FATF 40 Recommendations on money laundering and 9 Special Recommendations on Terrorist Financing (the FATF 40 + 9).

The APG plays a key role in supporting the development of a regional network of FIUs. Additionally, the APG has a research and analysis function, providing money laundering and terrorism financing trends and methods to better inform APG members of systemic and other associated risks and vulnerabilities.

Crucially, the APG also coordinates technical assistance and training to jurisdictions in the Asia Pacific region through their Donors and Providers Group. The Coordinating Office for the Participating Countries Anti-Money Laundering Initiative is also facilitated through the Donors and Providers Group. The APG is increasingly focused on donor coordination issues regarding FIU assistance, with a focus on

developing the synergies between FIU-related technical assistance and training provided by AUSTRAC and other providers in the Asia Pacific.

Papua New Guinea

In 2005, PNG introduced new anti-money laundering legislation: the *Proceeds of Crime Act 2005* (POCA), the *Mutual Assistance in Criminal Matters Act 2005* and the *Extradition Act 2005*. The POCA contains provisions to establish an anti-money laundering system and enables the restraint, seizure and forfeiture of tainted property. It also provides for a regime of financial transactions reporting by cash dealers to a FIU.

In July 2007, Papua New Guinea ratified the United Nations Convention Against Corruption, which contains a number of provisions relating to anti-money laundering measures. At the same time, an IMF Review Team, with assistance from AMLAT representatives, undertook a review of Papua New Guinea's anti-money laundering legislation and administrative instruments. The Review Team proposed the development of a national strategy for implementing anti-money laundering legislation, along with a range of recommendations against existing provisions to improve further Papua New Guinea's compliance with the FATF 40 + 9. The Review Team concluded that compliance with the international anti-money laundering standards was a realistic and achievable target for Papua New Guinea over the medium term.

An implementation group comprising of relevant government officials has been established, and provides direction on the implementation of a national strategy. The initial focus is on capacity and expertise-building in key institutions considered vital to an effective AML/CTF regime. Papua New Guinea has established an operational FIU, which is part of the Royal Papua New Guinea Constabulary National Fraud and Anti-Corruption Directorate. The FIU began receiving hardcopy suspicious transaction reports in December 2007, and continues to develop direct linkages with the reporting sector and the users of the FIU's intelligence product.

Papua New Guinea has indicated that, in accordance with the national strategy, existing legislation will undergo assessment and possible amendment in the short term, with a particular focus on the compliance and asset recovery aspects of the anti-money laundering regime. Official consideration is also being given to the terms of a Bill to implement international obligations in relation to combating terrorist financing.

Consultations have also commenced as to the best way to formalise the existence of the implementation group, including the establishment of a formal reporting structure and consideration of the group's membership.

APG membership status

Papua New Guinea has not undergone a mutual evaluation against the FATF 40 + 9 as it is not a member of the FATF or the APG. At the July 2008 APG Annual Meeting in Bali, APG members agreed to a six-month extension of Papua New Guinea's Priority Observer status, subject to a high-level outreach mission proceeding before December 2008. The outreach mission was intended to facilitate Papua New Guinea's full membership, and would include a representative from AUSTRAC. However, it

appears increasingly unlikely that the outreach mission will occur within the required timeframe, with possible implications for Papua New Guinea's efforts to strengthen its AML/CTF regime.

AUSTRAC Technical Assistance and Training

AUSTRAC has conducted an in-country IT Needs Assessment of the Papua New Guinea FIU. The IT Needs Assessment Report was provided to the FIU and relevant parties in February 2008, to assist in the identification of suitable solutions to meet the FIU's existing and future IT needs. In line with anticipated reporting levels, it is expected that Papua New Guinea will soon require a secure and effective electronic system for receipt and analysis reporting.

AUSTRAC has adopted a regional approach when considering future technical assistance and training activities in the Pacific region, and will continue to consult with Pacific jurisdictions and other donors and providers to ensure there is no duplication of effort.